



SCHOOL ELECTIONS

Big Changes Under the Big Top



Montana
Office of Public Instruction
Denise Juneau, State Superintendent

opi.mt.gov

2015 Legislative Changes

8 Bills Passed in the 2015 Legislature Affecting
School Elections:

HB 69, HB 84, HB 198, HB 209, HB 400
HB 529, HB 580 and SB 151

2015 Legislative Changes

HB 69: Update Training Requirements for
Election Administrators

DOES NOT APPLY TO SCHOOL ELECTIONS

2015 Legislative Changes

HB 84: Generally Revise Election Laws

Effective Date: November 4, 2015

This is the BIG election bill – 18 substantial changes that affect school elections

2015 Legislative Changes

HB 84

1. Changes the Date County Superintendent Takes Office

Was: First Monday in January

Now: Take oath on or before the last business day in December and take office at 12:01 am on January 1

20-3-202, MCA

2015 Legislative Changes

HB 84

2. Changes Definition of “Special School Election”

Was: Any school election other than a trustee or general fund levy election

Now: Refers to the date and election is held – any election held on a day other than the regular school election, the primary election, or the general election day.

20-1-101 (23), MCA

2015 Legislative Changes

HB 84

3. Administration of Community College District Elections

Was: Elementary district where community college is located responsible for administration of election

Now: County election administrator responsible for administration of community college district elections

20-15-203, MCA

2015 Legislative Changes

HB 84

4. Changes to Candidate Filing Dates

Was: 135 days before to 40 days before

Now: 145 days before to 40 days before

20-3-305 (2), MCA

2015 Legislative Changes

HB 84

5. Changes to Candidate Filing Requirements

Was: 5 signatures (petition) for a second or third class district or 20 signatures (petition) in a first class district required before filing as a candidate

Now: No signatures (petition) required – only file with the election administrator

20-3-305, 20-3-338, and 20-3-344 (R), MCA

2015 Legislative Changes

HB 84

6. Election Resolution Date Changes

Was: 70 days for a mail ballot election and 40 days for a poll election

Now: 70 days for ALL elections

20-20-201, MCA

6. Election Resolution Date Changes

Key things to include in your resolution

- Purpose of the election (even if just thinking about it)
- Whether the election will be held my mail or poll ballot
- The time that the polls will be open – if before noon (as early as 7 am)
- Polling locations (same as for general elections where possible)
- Boundaries for each polling location (if using multiple polling locations)
- Three judges for each polling location

2015 Legislative Changes

HB 84

7. Transmittal of Election Resolution to County Election Administrator

Was: No later than 35 days before the election

Now: No later than 3 days after the resolution is passed *and*
after the mail ballot written plan is approved

20-9-426, MCA

7. Transmittal of Election Resolution to County Election Administrator

Sending the Resolution to the County Election Administrator

- Must be sent within 3 days of passage of the resolution
- Must send a copy of the approved mail ballot plan AND any amendments
- For late registration purposes, include your contact information

2015 Legislative Changes

HB 84

8. Change in requirements for mail ballot elections

Was: A single mail ballot plan for a district election

Now: Separate mail ballot plans for each election within a district – trustee and levy elections are considered “separate” elections

13-19-205, MCA

2015 Legislative Changes

HB 84

9. Districts subject to the provisions of late registration

Was: Districts were exempt from late registration

Now: Districts must now accept late registrations and late changes to registrations (must be done through the county)

13-2-304, MCA

9. Districts subject to the provisions of late registration

- Late registrants should be treated as absentee voters
- Voters must register at the county:
 - If the county is running the election, the county election administrator will give them a ballot.
 - If the district is running the election, the district will give them a ballot (if available), mail them a ballot (with the other absentee ballots), or give them a date that ballots will be available. If prior to election day, the voter may take the ballot and return it prior to 8pm on election day.

9. Districts subject to the provisions of late registration

Provisional v. Regular Ballots

- Provisional

- If the late registrant is transferring registration from a jurisdiction where the school clerk is running the election; ***UNLESS the district can be contacted to verify:***
 - ✓ The election in the prior district has been canceled (or called by acclamation); or
 - ✓ That no ballot has been issued to the elector

The district must remove the elector from the list of registered electors (also cancel the label and/or prepared ballots)

- If the late registrant is transferring registration from a jurisdiction where the county is running the election and a ballot has been issued

9. Districts subject to the provisions of late registration

- Regular Ballot

- If it can be verified that the voter has NOT already received a ballot (either from the school district or another county election administrator)
- The late registrant is a new voter

Late registrants must be registered ***and in line*** at the polling location by 8pm.

2015 Legislative Changes

HB 84

10. Districts must notice close of regular registration

Was: Districts were exempt from late registration

Now: Districts are no longer exempt from late registration and must notice the close of regular registration 30 days prior to the election

13-2-301, MCA



10. Districts must notice close of regular registration

Districts should include in their notice of late registration that late registration must be done at the county election office – NOT AT THE SCHOOL DISTRICT.

2015 Legislative Changes

HB 84

11. Changes to Write-In Candidate Deadlines

Was: No later than 5pm on the 26th day before the election

Now: No later than 5pm on the day before the ballot certification deadline

20-3-305 (2), MCA

2015 Legislative Changes

HB 84

12. Changes to Deadline for Candidate Withdrawal

Was: Less than 38 days before a school election

Now: After 5pm the day before the ballot certification deadline

20-3-305 (3), MCA

2015 Legislative Changes

HB 84

13. Changes to Ballot Certification Deadline

Was: Not less than 25 days before

Now: Not less than 30 days before

20-20-401, MCA

2015 Legislative Changes

HB 84

14. Changes to Election by Acclamation Dates

Was: No later than 25 days before the election

Now: No later than 30 days before the election

20-3-313, MCA

14. Changes to Election by Acclamation Dates

- District should notify the county election administrator of any canceled elections or elections called by acclamation to assist with late registration provisions

2015 Legislative Changes

HB 84

15. Changes to Bond Election Ballot Requirements

Was: Separate ballots for each bond purpose, available 30 days before the election

Now: One ballot, regardless of number of purposes, ballots available at the same time as other ballots (20 days prior to the election for absentee, 15-20 days prior for mail ballot election)

20-9-426, MCA



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2015 Legislative Changes

HB 84

16.Changes to the Date Mail Materials are Mailed

Was: No sooner than 25 days, no later than 15 days

Now: No sooner than 20 days, no later than 15 days

13-19-207, MCA



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2015 Legislative Changes

HB 84

17. Changes to School District Election Notice

Was: Not less than 20 days or more than 30 days before the election – notice in newspaper (if available), three public places (including one in each ward or precinct), and an option to publish via radio or television

Now: Not less than 10 days or more than 40 days before the election – notice in newspaper (if available), three public places, on the district website (10 days before the election, if the district has an active website), and an option to publish via any recognized media organization

20-20-204, MCA

17. Changes to School District Election Notice

Not required, but consider putting in the election notice that late registration is done at the county and that voters must be **IN LINE AT THE POLLS** by 8pm on election day to vote.

2015 Legislative Changes

HB 84

18. Changes to the Request for County to Conduct District Elections

Was: District made a request to county election administrator by June 1

Now: The request for the county election administrator to conduct school district elections must be made by a resolution of the board of trustees no later than June 1

20-20-417, MCA

18. Changes to the Request for County to Conduct District Elections

- County responsibilities when running a school district election:
 - Submit the mail ballot plan and any necessary amendments (unless other arrangements have been made)
 - Run the election in accordance with the rules for school district elections (Title 20)
 - Return the certified tally sheets to the district after the election is over

18. Changes to the Request for County to Conduct District Elections

- School district responsibilities when the county is running a school district election:
 - Conduct the canvass
 - Conduct any necessary recounts (at the official meeting place of the board of trustees)
 - Pay for the cost of the election

18. Changes to the Request for County to Conduct District Elections

Ballot Retention

- If the county is conducting another election with the school district election and the same ballot is used for the both elections, the county retains the ballots and all official documents related to the election (with the exception of the certified tally sheets);
- The county will provide a certified list of materials retained for the district's records

18. Changes to the Request for County to Conduct District Elections

Recounts When the County Conducts Election

- Option 1: County election administrator brings the materials to the meeting, stays for the recount, then brings the materials back to the county for retention
- Option 2: The county provides the district with the seal log and the district records the opening of the seals on the county seal log

2015 Legislative Changes

HB 198: Revise Election Laws Related to Names on the Ballot

Effective Date: October 1, 2015 (2016 trustee election)

Adds #3 to 13-12-203, MCA

“(3) Except as otherwise provided by this section, information about the candidate other than the candidate’s name may not appear on the ballot, including a title, accomplishment, award, or degree.”

2015 Legislative Changes

HB 198: Revise Election Laws Related to Names on the Ballot

NO

YES

Mrs. Sharon Osbourne



Sharon Osbourne

Johnnie Cochran, Esq.



Johnnie Cochran

Doogie Howser, MD



Doogie Howser

General Colin Powell



Colin Powell

2015 Legislative Changes

HB 209: Revise Laws Related to Designation of an Agent to Assist Elector

Effective Date: October 1, 2015

Amends 13-1-116 (4), MCA

“(4) (a) An elector who is unable to provide a signature may apply to the election administrator to have another person designated as an agent for purposes of providing a signature or identifying mark required pursuant to this title and ~~for delivering the disabled elector’s absentee ballot application to the county election administrator as provided in 13-13-213 for providing~~ any other assistance to the elector throughout the registration and voting process. The use of an agent is a reasonable accommodation under the provisions of 49-2-101 (19) (b).”

2015 Legislative Changes

HB 400: Allow Electronic Ballot for Disabled Voters

Effective Date: October 1, 2015

A voter with a disability may request an electronic ballot
(request may be made by electronic mail)

- Elector must be provided an electronic ballot, instructions for completing the ballot, a secrecy envelope, and a transmittal cover sheet that includes an elector affirmation (provisionally registered electors must received instructions on what to include with the voted ballot to verify registration status).
- The election administrator must maintain a log of all electronic ballots.

2015 Legislative Changes

HB 400: Allow Electronic Ballot for Disabled Voters

- The elector must vote the ballot, print the ballot, place it in a secrecy envelope, and sign the affirmation (by fingerprint, mark, agent, driver's license number, or the last four of the SSN).
- The voted ballot must be received by 8pm on election day.
- Electronic ballots must be transcribed to actual ballots (Secretary of State to develop rules).

2015 Legislative Changes

HB 529: Prohibit Candidate From Serving as Poll Watcher at Certain Polling Places

Effective Date: October 1, 2015 (2016 trustee election)

Adds #2 to 13-13-120, MCA

“(2) A candidate may not serve as a poll watcher at a polling place where electors are voting ballots with the candidate’s name on them”.

2015 Legislative Changes

HB 580: Prohibiting Certain Persons From Distributing Things of Value at Polling Places

Effective Date: October 1, 2015 (2016 trustee election)

Adds #2 to 13-35-211, MCA

“(2) On election day, a candidate, a family member of a candidate, or a worker or volunteer for the candidate’s campaign may not distribute alcohol, tobacco, food, drink, or anything of value to a voter within a polling place or a building in which an election is being held or within 100 feet of an entrance to the building in which the polling place is located.”

2015 Legislative Changes

SB 151: Strike Requirement to File Campaign Reports with Election Administrators

Effective Date: October 1, 2015 (2016 trustee election)

- Applies only to first class districts in counties with populations of 15,000 or more.
- Campaign finance activities are reported ONLY to the MT Commissioner of Political Practices (electronic filing available).

<http://politicalpractices.mt.gov/default.mcpix>

Election Timeline

For elections conducted ON OR AFTER
November 4th, 2015

- 2016 Trustee Election
- Any “other election” conducted after this date
(building reserve levy, school bonds,
technology levy, etc)

Election Timeline

Trustee Candidate Filing

- Nomination Petitions no longer required.
- Candidate filing window 145 days before to 40 days before.



Election Timeline

Calling the Election

- 70 days before the election for ALL ELECTIONS (no difference between mail ballot and poll elections).

Election Timeline

Mail Ballot Election Deadlines

- Deadline for resolution is 70 days before.
- Deadline for receipt of materials is 60 days before.
- Must have a separate plan for each “election” (trustee, levy).

Election Timeline

Withdrawal From Election

- A candidate may not withdraw after 5pm the day before ballot certification (30 days prior to the election).

Election Timeline

Filing Resolutions with the County Election Administrator

- 3 days after the election resolution is passed.
- For mail ballot elections, as soon as the plan (and any amendments) are approved by the Secretary of State.

Election Timeline

Notification of Election Judges

- At least 30 days prior to the election.
- Should have a reserve of judges, in case someone cancels.

Election Timeline

Close of Regular Registration

- Late registration is now allowed for school elections.
- Must notice close of regular registration.

Election Timeline

Notice of Election

- Expanded window – between 10 and 40 days prior to the election.
- Notice in the newspaper (if one in district);
- Notices in 3 public places;
- On district website, if active, for 10 days prior to the election.

Election Timeline

Write-In Candidates

- No later than 5pm the day before ballot certification (30 days prior to the election).

Election Timeline

Election by Acclamation/Canceling an Election

- 30 days before the election for ALL ELECTIONS (no difference between mail ballot and poll elections).

Election Timeline

Ballot Certification

- Ballots certified 30 days prior to the election.
- Must finalize all levy amounts by this date.

Election Timeline

Absentee Ballots

- At least 20 days prior to the election.
- No difference for bond elections (at least 20 days before).



Election Timeline

Mailing Mail Ballots

- No sooner than the 20th day, no later than the 15th day, before the election.

Election Timeline

Canvass the Vote

IF PROVISIONAL BALLOTS – must wait until after 3pm on the Monday following the election

- Cannot canvass the vote until ALL votes have been counted



Election Timeline

Requesting the County to Conduct the Election

- No later than June 1 the year before the election.
- Must be done by board resolution.

Election Issues

Provisional Ballots

Why would a voter be issued a provisional ballot?

- Name is not in the precinct register
- The precinct register indicates that the voter is provisionally registered
- The elector claims registration with Motor Vehicle Division or other government agency, which cannot be confirmed

Election Issues

Provisional Ballots

Why would a voter be issued a provisional ballot?

- The elector claims their ballot was lost, spoiled, not received or destroyed
- The signature envelope was unsigned or not verified
- The elector's right to vote was challenged (burden of proof on challenger)
- The elector (or elector's agent) refuses to sign or fails to sign the precinct register

Election Issues

Resolving Provisional Ballots

Give notice to the elector as soon as possible after receipt of their ballot (or immediately if they are at the polls)

- Have until 5pm the day after the election to provide proof of eligibility to have your vote counted (in person, by facsimile, by email); or
- Postmarked by the day after election day and verified by 3pm on the sixth day after the election

Election Issues

Provisional Ballot

- Provisional ballot instructions
- Provisional ballot outer envelope
- Provisional ballot secrecy envelope
- A regular ballot



Election Issues

Provisional Ballot

- Elector signs the register
- Elector votes the ballot
- Elector places the ballot in a provisional ballot secrecy envelope
- Elector places the secrecy envelope in an outer envelope
- Place the voted ballot in an unverified provisional ballot container

Election Issues

Provisional Ballot Handling

- **Verified ON ELECTION DAY**
 - Take the envelope out of the unverified container
 - Take the secrecy envelope out of the outer envelope
 - Place the outer envelope in the verified provisional ballot container
 - Place the voted ballot with other voter ballots

Election Issues

Provisional Ballot Handling

- Verified AFTER ELECTION DAY
 - Seal the box(es) of verified and unverified ballots after the close of polls
 - Reconvene judges after 3pm on the 6th day after the election
 - Resolve every provisional ballot (count the ones to be counted and reject the ones to reject)
 - Send every elector a reason as whether or not their vote was counted.

Election Issues

Election By Acclamation

Question: What constitutes an election?

- Type
- Voters
- Race

Election Issues

Timing Issues With Trustee Appointment

- Resignations must be made in writing
 - Resignation must be made to the district clerk
 - Resignation is effective 72 hours after submission

2-16-502, MCA

Election Issues

Timing Issues With Trustee Appointment

- Remaining trustees must declare the position vacant
- 60 days to appoint a successor
- After 60 days, appointment is made by the county superintendent

Election Issues

Timing Issues With Trustee Appointment

Example:

- ✓ Trustee resigns at the February board meeting – gives notice to the district clerk;
- ✓ 72 later the resignation becomes effective;
- ✓ The board declares the position vacant at the March board meeting;
- ✓ March 26th is the end of candidate filing



Election Issues

Timing Issues With Trustee Appointment

Question:

Do you put the candidate position on the ballot?

NO

Election Issues

Timing Issues With Trustee Appointment

Considerations:

- ✓ Timing in relation to the candidate filing window;
- ✓ Has the deadline passed in regard to the resolution calling for an election?; and
- ✓ What is the political climate?

Election Issues

Timing Issues With Trustee Appointment

Same scenario – when do you appoint?

- ✓ 60 days will probably end close to election day;
- ✓ Does the board have a solid policy in place for appointment?; and
- ✓ What is the political climate?

Election Issues

Timing Issues With Trustee Appointment

Options:

- Make the appointment;
- Defer the appointment (to the new board or the county superintendent)

Election Issues

Poll Watchers and Ballot Counting

Must allow poll watchers

- Number determined by space available
- New legislation prohibits the candidate from being a poll watcher
- Give them a designated space and do not allow them to interfere (they may ask you to repeat names when people come to the polls)

Election Issues

Poll Watcher Issues

- Multiple people request to be poll watchers
 - Times slots;
 - Lottery; or
 - Hierarchy based on who they are (associated with independent organizations, candidates, parties/factions)
- Have a plan in place BEFORE election day!

Election Issues

Ballot Counting

- Ballot counting must be public
- Ballots may be counted before or after the close of polls
 - BEFORE – must be sequestered and remain until the polls close (no cell phones or other recording devices)
 - AFTER – no sequester (still no recording devices)
 - ALWAYS – keep distance to maintain ballot secrecy

Election Issues

Recounts

- Notify candidates individually (rather than just noticing the special meeting)
- Recount is public
 - Candidates
 - Representatives of the media
 - Ballot issues: One qualified elector favoring each side